

United States District Court
for the
Western District of New York

United States of America

v.

Case No. 23-mj-1115

Simon Gogolack

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Beginning on or about July 3, 2023, and continuing until on or about August 8, 2023, in the County of Allegany, in the Western District of New York, the exact dates being unknown, the defendant has committed violations of Title 18, United States Code, Section 922(g)(1) (felon in possession of firearm and ammunition); Title 18, United States Code, Section 924(c)(1)(A)(i) (possession of firearms in furtherance of drug trafficking); Title 18, United States Code, Section 922(g)(3) (unlawful user of controlled substances in possession of firearm and ammunition), Title 21, United States Code, Section 856(a)(1) (maintaining a drug-involved premises), and Title 21, United States Code, Section 846.

This Criminal Complaint is based on these facts:

- Continued on the attached sheet.

Anthony Butera

Complainant's signature

ANTHONY J. BUTERA
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION
Printed name and title

Sworn to and signed telephonically.

Date: August 17, 2023

Jeremiah McCarthy

Judge's signature

City and State: Buffalo, New York

HONORABLE JEREMIAH J. MCCARTHY
UNITED STATES MAGISTRATE JUDGE
Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

ANTHONY J. BUTERA, being duly sworn, deposes and says:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been so employed since August 2022. I am currently assigned to the Buffalo Field Office and to the White-Collar Crime Squad within that office. My duties include the investigation of public corruption offenses. As such, I am an investigator or law enforcement officer of the United States, within the meaning of Title 18, United States Code, Section 2510(7), and I am empowered by law to conduct investigations of, and to make arrests for, the offenses enumerated in Title 18, United States Code, Section 2516. Prior to becoming a Special Agent, I was employed as a New York State Trooper.

2. This affidavit is being submitted for a limited purpose, that is, a probable cause determination, therefore I have not presented all of the facts of this investigation to date. I have set forth only the information I believe to be necessary to establish probable cause. The facts in this affidavit come from my review of police reports, documents, my training and experience, and information obtained from other FBI agents, HSI Agents, and ATF Agents.

This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this manner.

3. This investigation is ongoing, continues to progress, and relates to firearm offenses, drug offenses, and the death of an individual (hereinafter "Decedent"). I have set forth only the facts that I believe are necessary to establish probable cause that SIMON GOGOLACK has committed violations of: Title 18, United States Code, Section 922(g)(1) (felon in possession of firearm and ammunition); Title 18, United States Code, Section 924(c)(1)(A)(i) (possession of a firearm in furtherance of drug trafficking); Title 18, United States Code, Section 922(g)(3) (unlawful user of controlled substances in possession of firearm and ammunition), Title 21, United States Code, Section 856(a)(1) (maintaining a drug-involved premises), and Title 21, United States Code, Section 846 (conspiracy to distribute controlled substances)(hereinafter, the "Enumerated Offenses").

PROBABLE CAUSE

BACKGROUND OF INVESTIGATION

4. On August 2, 2023, the FBI and the United States Attorney's Office were informed that Decedent had been found deceased inside of a residence at 296 Scott Avenue, Wellsville, NY at approximately 6:25 PM on August 1, 2023. Decedent's death remains under investigation, and the investigation establishes that the residence is controlled by SIMON GOGOLACK.

5. The 911 caller who reported Decedent's death was SIMON GOGOLACK. GOGOLACK resided at the residence where Decedent was found. The dispatch log, which was generated contemporaneously with the 911, indicates that GOGOLACK stated "possible overdose," "he tried Narcan," "cold to touch and stiff," and "believes she is beyond help."

6. The FBI obtained a copy of the police report generated regarding Decedent's death. The FBI communicated with local law enforcement officers from Wellsville regarding the investigation into Decedent's death and conducted interviews of witnesses familiar with GOGOLACK.

7. Based upon its communication with the Wellsville Village Police Department, the FBI has learned the following information:

- a. On Tuesday, August 1, 2023, at approximately 6:25 PM, GOGOLACK called the police and informed them that Decedent was dead at his residence in Wellsville, New York.
- b. When local law enforcement officers arrived on scene, GOGOLACK met them and brought them inside of his residence to the body of Decedent.
- c. Local law enforcement observed GOGOLACK to be exhibiting signs of intoxication on both alcohol and narcotics. GOGOLACK was acting erratic and could not sit still, which lead local law enforcement to believe GOGOLACK was high on methamphetamine.
- d. Inside of GOGOLACK's residence, law enforcement recovered, among other items, a small container with an unknown brown substance wrapped in tin foil.
- e. GOGOLACK informed local law enforcement that he owned the residence and that he lived upstairs. GOGOLACK identified a downstairs tenant, Tenant 1.

8. Additionally, responding law enforcement officers noticed several shotgun shells scattered over the floor of GOGOLACK's residence. A crossbow was also observed along with ammunition for a 22-caliber gun.

9. Law enforcement subsequently interviewed Tenant 1 and determined that Tenant 1 was friends with GOGOLACK but has not been to Wellsville for many years. Interviews conducted by the FBI establish that GOGOLACK controls the residence where the Decedent's body was found.

10. On August 2, 2023, GOGOLACK drove Decedent's mother's vehicle from Wellsville to return it to Decedent's mother in Depew, New York.

11. On August 2, 2023, at approximately 7:15 PM, GOGOLACK was observed in Depew, NY, operating Decedent's mother's vehicle. GOGOLACK was arrested by local law enforcement for operating a motor vehicle with a suspended or revoked driver's license. At this time, GOGOLACK was found in possession of a wallet appearing to belong to a Tenant 1.

12. On Wednesday, August 2, 2023, after members of the Depew Police Department arrested GOGOLACK, FBI agents provided *Miranda* warnings to GOGOLACK and interviewed him at the police station.

13. During the interview with the with the FBI on August 2, 2023, GOGOLACK stated that the brown substance contained in the foil was home-made "hash." Additionally,

GOGOLACK made statements indicating that Decedent ingested a green Xanax bar. Agents were unfamiliar with “green” Xanax bars, and GOGOLACK subsequently described green Xanax bars to the agents.

14. I have reviewed photographs of the brown substance in tin foil recovered near 296 Scott Avenue, Wellsville, NY’s body, which is consistent in appearance and packaging with the illicit use of controlled substances. During the August 2, 2023, interview with the FBI, GOGOLACK described the below depicted substance as “hash” that he had produced.



The suspected controlled substance depicted above will be submitted for analysis, and results are not yet available.

15. As noted *supra* ¶ 6, the FBI conducted additional interviews with witnesses familiar with GOGOLACK. The results of those interviews indicate that GOGOLACK has been observed with firearms and/or controlled substances at his residence and, furthermore, that GOGOLACK offered to procure controlled substances.

16. As set forth above, GOGOLACK is an unlawful user of controlled substances. GOGOLACK was under the influence of drugs in the presence of Wellsville Police Department officers. Additionally, during his interview with the FBI on August 2, 2023, he acknowledged that he is a drug user and that he produced home-made "hash" which he then supplied to Decedent. Moreover, his arrest history includes, among other things, arrests for possession of controlled substances on January 3, 2019, November 13, 2018, January 5, 2006, and for operating a motor vehicle impaired by drugs on August 5, 2016.

17. GOGOLACK is also a convicted felon. On August 27, 2007, he was convicted in Erie County Court of Attempted Criminal Sale of a Controlled Substance in the 5th Degree, a Class E felony, and on November 7, 2007, he was sentenced to 5 years of probation (this sentence was revoked due to another drug-related arrest, and he was sentenced to 1 year in prison).

18. Based on my training and experience, convicted felons are aware of their status as convicted felons.

Search Warrant GOGOLACK Cellular Telephone

19. On August 2, 2023, FBI agents executed a search warrant authorizing the seizure and search of GOGOLACK's cellular phone. FBI Special Agents created an image of the cellular phone, and it is being reviewed pursuant to the warrant.

20. GOGOLACK's cellular phone contained images of what appeared to be controlled substances and firearms, depicted as follows:



21. Text messages from GOGOLACK's telephone identified a large number of text communications which, based on my experience, demonstrate that GOGOLACK is a narcotics and firearms dealer. Examples of these text communications with multiple individuals include the following:

SAMPLE 1 Narcotics Related Conversation

"Hulk" is drug slang for a green pressed tablet that contains Fentanyl mixed with the prescription sedative Xanax, a Control IV Scheduled Narcotic and pressed into a tablet. "Hulk" is similar in appearance to a form of the Xanax prescription available in Pharmacies.

Green boxes are GOGOLACK's text messages.

Message 1 (Blue Bubble):

From: +17164015325 Scott 5325
I've had a rough 2 days. Them hulks are a fucken nightmare. Never again. Gonna go back to sleep try to revive myself
Status: Read
7/3/2023 3:41:03 AM(UTC+0)

Source Extraction:
Advanced Logical

Message 2 (Green Bubble):

To: 716 4015325 Scott 5325
The pressed bars?

Participant	Delivered	Read	Played
716 4015325 Scott 5325			

Status: Sent
7/3/2023 4:31:19 AM(UTC+0)

Source Extraction:
Advanced Logical

Message 3 (Blue Bubble):

From: +17164015325 Scott 5325
Yeah them ones from the day I met w you not mixed well or something
Status: Read
7/3/2023 7:06:01 AM(UTC+0)

Source Extraction:

SAMPLE 2 Narcotics Related Conversation

“Ice” is drug slang for crystal methamphetamine, a Control I Scheduled Narcotic.

To: 716 3143339 Brandon Big
We gotta work something out with this situation here. It ain't sitting right with me.. but besides that myans got 2balls ice for 225

Participant	Delivered	Read	Played
716 3143339 Brandon Big			

Status: Sent
7/16/2023 3:52:35 PM(UTC+0)

Source Extraction:
Advanced Logical

To: 716 3143339 Brandon Big
N rides bro

Participant	Delivered	Read	Played
716 3143339 Brandon Big			

Status: Sent
7/16/2023 3:52:44 PM(UTC+0)

Source Extraction:
Advanced Logical

To: 716 3143339 Brandon Big
Yo yo yo big bro

Participant	Delivered	Read	Played
716 3143339 Brandon Big			

Status: Sent
7/17/2023 4:55:16 PM(UTC+0)

Source Extraction:
Advanced Logical

From: +17163143339 Brandon Big
Shit what's good
Status: Read
7/17/2023 5:42:22 PM(UTC+0)

Source Extraction:

SAMPLE 3 Firearms Related Conversation

A Mini Draco is a Romanian made AK Semi-automatic Pistol made by Cugir Arms Factory, which typically has a 30 round magazine (clip).

To: +1 716-559-5689 Deal
Silver mini draco with 4 clips 1325

Participant	Delivered	Read	Played
+1 716-559-5689 Deal			

Status: Sent
7/8/2023 12:23:04 AM(UTC+0)

Source Extraction:
Advanced Logical

From: +17165595689 Deal
Let me see
Status: Read

7/8/2023 12:27:41 AM(UTC+0)

Source Extraction:
Advanced Logical

From: +17165595689 Deal
It
Status: Read

7/8/2023 12:27:43 AM(UTC+0)

Source Extraction:
Advanced Logical

To: +1 716-559-5689 Deal
Gotta get a pic . I tried it out on the 4th it's ill

Participant	Delivered	Read	Played
+1 716-559-5689 Deal			

Status: Sent
7/8/2023 12:29:44 AM(UTC+0)

Search Warrant GOGOLACK's Residence

22. On August 8th, 2023, FBI Special Agents executed a federal search warrant at GOGOLACK's residence located at 296 Scott Avenue, Wellsville, NY. During the search of 296 Scott Avenue, members of the FBI search team recovered items relevant to the charged offenses in this complaint, including but not limited to the following:

- a. Firearms related seizures:
 - i. Keltec Shotgun Model: KSG Gauge 12;
 - ii. AR Rifle Upper and Butt Stock with Spring;
 - iii. Thirteen (13) 12 gauge shotgun rounds;
 - iv. 137 rounds of various types of ammunition were found located in numerous locations within the residence;
 - v. Several firearm magazines; and,
 - vi. Body Armor.

- b. Narcotics-related seizures:
 - i. Scale;
 - ii. White powdery substance on light blue laptop with razor blade;
 - iii. 2 bags of green leafy substance suspected to be marijuana;
 - iv. Numerous live suspected marijuana plants;
 - v. Foil with residue from the trash;
 - vi. Plate with residue;
 - vii. Glass vial;
 - viii. Plastic syringe;
 - ix. A suspected used narcotics needle;
 - x. Needle cap;

- xi. Plastic container with suspicious powdery substance;
- xii. Miscellaneous drug paraphernalia; and,
- xiii. Glass pipe;

23. Consistent with the image communications on GOGOLACK's phone, the items imaged below were recovered by the FBI during the search of 296 Scott Avenue. Some of the items seized, such as the Keltec Shotgun Model: KSG Gauge 12, appear to match the images in GOGOLACK's phone. Some of the items seized, including the firearm, some ammunition, and narcotics-related items are depicted below as follows:









24. A presumptive test of the white powdery substance, marked as Item 44 in the image depicted above, had an inconclusive result for narcotics. A lab analysis of the substance, as other drug related items, is pending at the Erie County Central Police Services Forensic Laboratory.

25. In addition to the suspected narcotics, agents also seized narcotic trafficking tools such as a scale, which is commonly used to weigh distribution amounts of drugs, and razor blade, which is commonly used mixed controlled substances and cutting agents designed to “stretch” the product to increase profits. These items, in combination with the above-referenced text messages and the location of a firearm, ammunition, and a ballistic vest are all tools of the drug trafficking trade. As a result, I believe that GOGOLACK both distributes and uses controlled substances.

26. Based upon your affiant's training and experience, and the training and experience of other agents the quantity of the white substance found, depicted above, even if it does not test positive for a controlled substances after lab analysis is completed, is at a minimum consistent with a cutting agent commonly used to "stretch" narcotics such as cocaine, fentanyl, heroin, or methamphetamine. The presence of a cutting agent is indicative of narcotics distribution, and not mere personal use.

27. Based upon your affiant's training and experience, and the training and experience of other law enforcement agents involved in the investigation of this matter, the proximity of the firearm to the distribution level amount of white substance, coupled with a large quantity of ammunition and a ballistic vest, indicates that the firearm was possessed for the purpose of protecting GOGOLACK, his drug proceeds, and controlled substances from theft. I am aware that firearms are common "tools of the trade" for individuals involved in trafficking of narcotics.

28. On August 14, 2023, Special Agent William Farnham, a certified Firearms Interstate Nexus Expert with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), examined and provided an interstate nexus determination of the above-mentioned firearm and a portion of the rounds of ammunition, including the shotgun ammunition, found at GOGOLACK's residence. SA Farnham determined, based upon a physical inspection, his personal knowledge, experience, and research, that the above-mentioned firearm and ammunition were manufactured outside of the State of New York and would have traveled in and affected interstate commerce prior to their recovery in the State of New York.

REQUEST TO SEAL

WHEREFORE, based on the foregoing, your affiant respectfully submits that probable cause exists to believe that **GOGOLACK** violated Title 18, United States Code, Section 922(g)(1) (felon in possession of firearm and ammunition); Title 18, United States Code, Section 924(c)(1)(A)(i) (possession of a firearm in furtherance of drug trafficking); Title 18, United States Code, Section 922(g)(3) (unlawful user of controlled substances in possession of firearm and ammunition), Title 21, United States Code, Section 856(a)(1) (maintaining a drug-involved premises), and Title 21, United States Code, Section 846, and requests that a Criminal Complaint and Arrest Warrant as aforesaid is issued, and that this Complaint and Affidavit be sealed until further Order of this Court based on a continuing investigation and in order to safely execute the Arrest Warrant.

CONCLUSION

WHEREFORE, based upon the foregoing, I respectfully submit that there is probable cause to believe that SIMON GOGOLACK has committed violations of the Enumerated Offenses.

Anthony Butera

ANTHONY J. BUTERA
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed telephonically
on this 17th day of August, 2023.

Jeremiah J. McCarthy

HONORABLE JEREMIAH J. MCCARTHY
United States Magistrate Judge